

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES A-K ARUNGA,

Plaintiff,

v.

MITT ROMNEY, *et al.*

Defendants.

Case No. 2:12-cv-873

Judge Peter C. Economus

MEMORANDUM OPINION AND ORDER

Plaintiff Arunga's complaint, titled "Petition For Writ of Mandamus To The Respondents Against Their Outlawed Political Ochlocracy," asks this Court (1) to "outlaw" President Barack Obama and former Massachusetts Governor Mitt Romney as candidates for President of the United States, and (2) to order Robert Gates and David Petraeus to be the legal candidates for president and vice-president. (Doc. 2.)

Because Plaintiff proceeds *in forma pauperis*, this case is controlled by 28 U.S.C. § 1915(e)(2), which provides that "the court shall dismiss the case . . . if . . . the action . . . (i) is frivolous or malicious [or] (ii) fails to state a claim on which relief may be granted."

In a Report and Recommendation dated October 24, 2012, Magistrate Judge Kemp correctly determined that Plaintiff's complaint fails to state a claim upon which this Court can grant relief. This Court agrees that "the subject matter of Mr. Arunga's complaint – that a presidential candidate is threatening to create an unconstitutional form of government – is simply beyond the reach of the Court's limited powers." (Doc. 3 at 3.) As the Magistrate Judge points out, "[i]ntervention into the midst of a political campaign for the purpose of disqualifying candidates based on an alleged threat to impose unconstitutional mob rule if elected is not a traditional function of the American courts." (*Id.*) The Magistrate Judge correctly determined

that “this complaint simply presents no justiciable issue which a court can resolve. Consequently, it should be dismissed under 28 U.S.C. §1915(e)(2).” (*Id.* at 4.)

Plaintiff filed objections on November 5, 2012. (Doc. 5.) In his objections, Plaintiff states that the Report and Recommendation is “based upon the pretense of 28:1915.e.2, [is] unlearned, uneducated, frivolous finagling and spurious actions as, similarly, novel theories of contortions, repugnant to Law of the Land.” He goes on to state that, “[a]ccordingly,” the Report and Recommendation is “summarily, objected, on constitutional merits.” (Doc. 5 at 2.) Plaintiff fails to address the legal conclusions in the Report and Recommendation and provides no support for his criticism of the conclusions set forth in the Report and Recommendation.

Because the Magistrate Judge correctly determined that Plaintiff’s complaint fails to state a claim upon which this Court can grant relief, the Court hereby **ADOPTS** the Report and Recommendation (doc. 3) and **DISMISSES** this case. The Court directs the Clerk to enter judgment.

IT IS SO ORDERED.

/s/ Peter C. Economus - November 6, 2012
UNITED STATES DISTRICT JUDGE